

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

DOROTHY GAUTREAUX, et al,	)	
Plaintiffs,	)	
	)	
vs.	)	No. 66 C 1459
	)	
CHICAGO HOUSING AUTHORITY, et al,	)	Hon. Marvin E. Aspen
Defendants.	)	
	)	

**JOINT MOTION TO 1) WAIVE THE RESTRICTION ON HOUSING CHA FAMILIES  
WITH CHILDREN IN UNITS ABOVE THE THIRD FLOOR, AND  
2) AMEND THE TENANT SELECTION AND ASSIGNMENT PLAN**

The Plaintiffs and Defendant Chicago Housing Authority (“CHA”) respectfully move that this court enter the attached Order, permitting the development of Oso Apartments, which would:

- A) Waive the *Gautreaux* restriction on housing families with children in public housing units above the third floor;
- B) Require CHA housing units that are the subject of this motion be made available first to eligible CHA families relocating under the CHA Plan for Transformation/Plan Forward and, if there no such families are available to occupy the units, to fill the CHA units in accordance with the CHA online site-based wait list order entered on February 1, 2018.

In support of this Motion, the parties state as follows:

**OSO APARTMENTS**

1. Oso Apartments, to be located at 3431-3445 West Montrose Avenue, will be a single phase, new construction, mixed-income rental building in a General Area in the Albany Park neighborhood.
2. The five-story elevator building will include a common area lobby with on-site laundry facilities, bicycle storage, and community space. Forty-eight rental units will occupy the second through fifth floors and will include 32 one-bedroom and 16 two-bedroom apartments.

3. Thirty-two CHA units will be financed by Rental Assistance Development Project-Based Voucher (“RAD PBV”) Transfer of Assistance and will partially satisfy the Lathrop Homes replacement requirement in this Court’s Order of December 22, 2016. The RAD PBV units will offer housing for CHA families earning up to 80% AMI. The remaining rental units will be financed by Low Income Housing Tax Credits (LIHTC) and restricted for those earning at or below 50% and 60% of the Area Median Income (AMI).
4. The unit mix for the building is as follows:

**Unit Mix**

<b>Unit Type</b>	<b>CHA</b>	<b>Affordable</b>	<b>TOTAL</b>
<b>1 BR</b>	<b>19</b>	<b>13</b>	<b>32</b>
<b>2 BR</b>	<b>13</b>	<b>3</b>	<b>16</b>
<b>TOTAL</b>	<b>32</b>	<b>16</b>	<b>48</b>

5. Evergreen Real Estate Services, LLC (ERES) is the developer of the site, having over 100 years combined affordable housing development and management experience. ERES was selected by CHA through its Pre-Qualified Development Team process and approved as a developer by the CHA Board of Commissioners in September 2017.

**UNITS ABOVE THE THIRD FLOOR**

6. On July 1, 1969, this Court entered the Judgment Order in this case, which prohibits CHA from concentrating “large numbers of Dwelling Units in or near a single location.” The Judgment Order provided specifically, “No Dwelling Units shall be provided above the third story in any structure except for families without children...” The Judgment Order also provided that the Court may give special approval for developments that do not meet all the Judgment Order’s specific requirements but are “specifically designed to assist in achieving the purposes” of the Order. 304 F. Supp. 736, 739 (N.D. Ill. 1969).
7. On August 6, 2015, this Court entered an order modifying the Judgment Order to automatically waive the restriction on families above the third floor in buildings that meet the following criteria: 1) the structure is located in a General or Opportunity Area; 2) public housing units comprise no more than one-third of all units within the structure; 3) no more

that 20% of all units within the structure contain three or more bedrooms; 4) each “unit size” (i.e. the number of bedrooms within a unit) within the structure is available to both public housing and non-public housing families, unless the structure contains only one unit of a particular unit size; 5) among units containing more than two bedrooms, no more than 75% of the same units size will be public housing units, unless the structure contains only one unit of that particular size; and 6) the public housing units are and remain well dispersed throughout the structure.

8. Although the proposed buildings meet five of the six criteria set forth in the August 6, 2015 order, they do not meet the second criteria. The buildings will be comprised of more than one-third of CHA units within the building structure. Because the building does not meet all the criteria listed in the Court’s August 6, 2015 Order, the parties ask this Court to waive the restriction on public housing for families above the third floor for the proposed building.
9. This Court has previously entered orders waiving the restriction on housing families with children in public housing units above the third story for a number of buildings in Revitalizing Areas, including: Building A located in Shops and Lofts at 47, the development on the first site of the most recent expansion of the North Kenwood Revitalizing Area (Order of October 30, 2012); one building of Phase 2B of Park Boulevard (Order of May 31, 2012); and Building T at the northwest corner of Clybourn and Division (Order of October 15, 2015).
10. The parties believe that housing CHA families in the Oso Apartments will meet the goal of creating mixed-income, desegregated housing opportunities for the following reasons:
  - a. Permitting the CHA units above the third floor will provide additional high quality housing for CHA families in this amenity-rich General area. It will also provide additional options for families relocating under the CHA’s Plan for Transformation/Plan Forward.
  - b. While CHA units comprise more than one third of the units in the building, the maximum number of persons that can reside in those units (given the number of bedrooms) is 90, well within the 120 person concentration limit found in Section IV. A. of the Judgment Order and in addition, the units will be dispersed among and externally indistinguishable from the non-CHA units.

- c. The parties have reviewed the proposed floor plans and agreed to a distribution that disperses the CHA units as well as possible.

#### **AMENDING THE TENANT SELECTION AND ASSIGNMENT PLAN**

11. The parties also move this Court to amend the current Tenant Selection and Assignment Plan (TSAP) to allow the 32 RAD PBV units that are the subject of this motion to be made available first to eligible CHA families relocating under the CHA's Plan for Transformation/Plan Forward, and then to eligible families on CHA's public housing waiting list.
12. The Court has previously modified the TSAP on numerous occasions to permit relocating CHA families access to newly developed mixed income units, including on August 24, 2010 (Lawndale Complex replacement); April 2, 2013 (Stateway Gardens replacement); February 26, 2014 (Robert Taylor replacement); December 3, 2015 (Casa Queretaro); and November 28, 2017 (ABLA Homes replacement).
13. On February 1, 2018, this Court amended the TSAP to allow for implementation of a site-based wait list program for CHA's general and community wait lists. Paragraph 17 of that order provided that previous orders allowing specific mixed-income developments to house families covered under the CHA's Plan for Transformation/Plan Forward would remain in effect, and provided that prior reference to the CHA's general public housing wait list shall be deemed to refer to the new site-based wait lists.

WHEREFORE, the parties request the Court to enter an Order in the form attached hereto waiving the restriction on housing families with children in units above the third story for the above described building to be known as Oso Apartments, and amending the Tenant Selection and Assignment Plan.

/s/ Elizabeth Silas  
One of the Attorneys for the CHA

/s/ Julie Elena Brown  
One of the Attorneys for the Plaintiffs

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**IN THE UNITED STATES DISTRICT COURT  
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DOROTHY GAUTREAUX, et. al.	)	
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Plaintiff,	)	
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v.	)	No. 66 C 1459
	)	
CHICAGO HOUSING AUTHORITY	)	Hon. Marvin E. Aspen
a municipal corporation, et. al.	)	
	)	
Defendant.	)	

**AGREED ORDER**

This matter coming to be heard on the Joint Motion of Plaintiffs and Defendant Chicago Housing Authority (“CHA”) for an order A) waiving the restriction on families with children in public housing units above the third floor for the single phase building known as Oso Apartments; and B) amending the Tenant Selection and Assignment Plan ; and

The Court having heard from parties concerning the proposed order; and

The Court being cognizant that the principal remedial purpose of the orders previously entered in this case has been to provide plaintiff class families with desegregated housing opportunities; and

The Court being authorized to issue orders in this case “designed...to achieve results consistent with [the Judgment Order]” (304 F. Supp. 736, 741); and

The Court being of the view, based on the representations of the parties, that the proposal to locate public housing units above the third floor in this building is designed to achieve results consistent with the Judgment Order previously entered in this case;

Now, therefore, IT IS HEREBY ORDERED:

- A) The Chicago Housing Authority shall be free to house families with children in public housing units above the third floor for the described building to be known as Oso

Apartments, so long as the units are and remain distributed among and externally indistinguishable from the non-public housing units;

- B) Public housing units in the Oso Apartments shall be made available first to eligible CHA families relocating under the CHA Plan for Transformation/Plan Forward, and, if there are no such families to occupy the units, to families on the CHA online site-based wait list in accordance with the Order entered on February 1, 2018.

ENTER:

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Honorable Marvin E. Aspen

Date: